

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 41

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MARK L. JENKINS, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Mark L. Jenkins ("Defendant" or "Jenkins"), was admitted to the North Carolina State Bar on April 8, 1994, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Waynesville, Haywood County, North Carolina.

FIRST CLAIM FOR RELIEF

4. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set forth herein.

5. In or around May 2007, Peter Watkinson ("Watkinson") retained Jenkins for representation in a civil matter. Watkinson paid Jenkins for the representation.

6. In August 2007, Jenkins informed Watkinson that Watkinson's case had been ordered to go to mediation.

7. Jenkins led Watkinson to believe that he had filed a complaint on Watkinson's behalf.

8. Jenkins did not file a complaint on Watkinson's behalf in the matter as indicated.

9. In or around October 2007, Watkinson contacted the Haywood County Clerk of Court regarding the status of his case.

10. The Haywood County Clerk of Court ("the Clerk") informed Watkinson that no complaint or any other document had been filed on his behalf in the matter.

11. Throughout the course of the representation, Jenkins repeatedly provided Watkinson with fictitious court dates and false updates about the status of Watkinson's case.

12. Jenkins misled Watkinson regarding the status of his case and the work Jenkins had completed on Watkinson's matter.

13. In or around October 2007, Watkinson contacted the State Bar regarding his experience with Jenkins. On or about 15 January 2008, the State Bar opened a grievance file against Jenkins based on Watkinson's complaint, grievance file no. 08G0058.

14. On or about 9 May 2008, the State Bar sent a Letter of Notice to Jenkins by certified mail regarding grievance file no. 08G0058. Jenkins timely responded to the Letter of Notice regarding grievance file no. 08G0058.

15. By letter dated 30 July 2008, the State Bar requested further information from Jenkins regarding his response to grievance file no. 08G0058. Jenkins was required to respond to this follow-up letter by 15 August 2008.

16. Jenkins failed to respond to the State Bar's 30 July 2008 follow-up letter within the time period provided.

17. On August 28, 2008, the State Bar received Jenkins's response to the 30 July 2008 follow-up letter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) & 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to file a complaint or otherwise pursue Watkinson's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (b) By failing to accurately respond to Watkinson's inquiries and otherwise keep Watkinson informed about the status of his case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client

to make informed decisions regarding the representation in violation of Rule 1.4(b);

- (c) By providing Watkinson with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c); and
- (d) By failing to timely respond to the State Bar's 30 July 2008 follow-up letter regarding grievance file no. 08G0058, Jenkins failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

SECOND CLAIM FOR RELIEF

- 18. Paragraphs 1 through 17 are re-alleged and incorporated as if fully set forth herein.
- 19. In or around December 2007, Bruce D. Sutton ("Sutton") retained Jenkins for representation in a civil matter. Sutton paid Jenkins \$1,500.00 and agreed to pay Jenkins twenty percent of any damages awarded for the representation.
- 20. In or around December 2007, Sutton informed Jenkins that the statute of limitations on his claim was set to expire in June 2008. Jenkins assured Sutton that a complaint would be filed before the statute of limitations expired.
- 21. In or around April or May 2008, Jenkins informed Sutton that he had filed a complaint on Sutton's behalf in the matter.
- 22. Jenkins did not file a complaint on Sutton's behalf in early 2008 as claimed.
- 23. Between December 2007 and early 2009, Jenkins repeatedly provided Sutton with fictitious court dates and falsely informed Sutton of progress made in his case.
- 24. Sutton eventually contacted the Haywood County Clerk of Court regarding the status of his case and was informed that no complaint or any other document had been filed on his behalf in the matter.
- 25. Jenkins did not file a complaint on Sutton's behalf in the matter until 2 September 2009, which was over one year after the June 2008 statute of limitations in Sutton's matter expired.
- 26. Jenkins misled Sutton regarding the status of his case and the work Jenkins had completed on Sutton's matter.
- 27. Jenkins's delay in filing the complaint until September 2009 caused Sutton's claim to be barred.

28. Throughout the course of the representation, Jenkins failed to respond to Sutton's requests for information, failed to provide substantive and useful updates to Sutton regarding his case, and otherwise failed to maintain adequate communication with Sutton.

29. After learning of Jenkins's failure to file a complaint on his behalf, Sutton requested a refund of the \$1,500.00 legal fee previously paid to Jenkins.

30. Jenkins failed to refund any unearned portion of Sutton's fee.

31. On or about 12 July 2010, Jenkins voluntarily dismissed Sutton's lawsuit.

32. Jenkins did not speak with Sutton or otherwise obtain Sutton's authorization to dismiss his pending lawsuit prior to voluntarily dismissing the lawsuit.

33. Jenkins did not inform Sutton that he voluntarily dismissed the lawsuit.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to consult with Sutton before voluntarily dismissing his lawsuit in 2010, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2);
- (b) By failing to file a complaint or otherwise meaningfully pursue Sutton's matter, and by allowing the statute of limitations to expire in Sutton's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By failing to accurately respond to Sutton's inquiries and otherwise keep Sutton informed about the status of his case, and by assuring Sutton a complaint had been filed when it had not, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (d) By failing to refund any unearned portion of Sutton's paid legal fee, Jenkins failed to take steps to the extent reasonably practicable to protect his client's interests upon termination of representation in violation of Rule 1.16(d); and

- (e) By falsely informing Sutton that the complaint had been filed in the matter when in fact it had not been filed, and by providing Sutton with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

THIRD CLAIM FOR RELIEF

34. Paragraphs 1 through 33 are re-alleged and incorporated as if fully set forth herein.

35. In or around July 2002, Bobby Teaster (“Teaster”) retained Jenkins for representation in a civil matter. Teaster paid Jenkins for the representation.

36. On or about 13 November 2003, Jenkins filed a complaint on Teaster’s behalf in his civil matter.

37. On or about 20 April 2005, Jenkins voluntarily dismissed Teaster’s complaint.

38. Teaster did not authorize Jenkins to voluntarily dismiss the complaint in his matter, and Jenkins did not inform Teaster of the 2005 voluntary dismissal.

39. On or about 19 April 2006, Jenkins filed another complaint on Teaster’s behalf concerning the civil matter for which Teaster originally retained Jenkins in July 2002.

40. A hearing on Teaster’s case was continued on or about 4 February 2009 and 16 April 2009 to allow for service of the complaint.

41. Jenkins falsely informed Teaster that the opposing party had been served with the 2006 complaint in the matter.

42. Contrary to Jenkins’s claim, the opposing party had not been served with Teaster’s complaint.

43. On or about 18 May 2009, Teaster’s case was dismissed due to Jenkins’s failure to perfect service on the opposing party.

44. Jenkins failed to notify Teaster of the dismissal of the case.

45. After the case was dismissed, Jenkins requested additional legal fees from Teaster but did not inform Teaster that the case had been dismissed. Teaster paid Jenkins \$767.00 on or about 25 March 2009 and \$720.00 on 17 September 2009 to continue pursuing what Teaster thought was his pending case.

46. In late 2009, Teaster met with Jenkins to discuss his case. Jenkins informed Teaster that the case was progressing smoothly.

47. Jenkins misled Teaster regarding the status of his case and the work Jenkins had completed on Teaster's matter.

48. In February 2010, Teaster went to the Haywood County courthouse and discovered his case had been dismissed in May 2009.

49. After Teaster learned about his case being dismissed, Teaster repeatedly attempted to contact Jenkins by telephone for an explanation. Jenkins did not return Teaster's telephone calls.

50. On or about 15 February 2010, Teaster spoke with Jenkins's assistant, who promised to deliver Teaster's message to Jenkins and set up an appointment for Teaster to speak with Jenkins. Jenkins did not respond to Teaster's message and did not set up an appointment to speak with Teaster.

51. Throughout the course of the representation, Jenkins failed to respond to Teaster's requests for information, failed to provide substantive and useful updates to Teaster regarding his case, and otherwise failed to maintain adequate communication with Teaster.

52. Throughout the course of the representation, Jenkins repeatedly provided Teaster with fictitious court dates and false updates about the status of Teaster's case.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to consult with Teaster before voluntarily dismissing his claim in 2005, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2)
- (b) By failing to take the steps necessary to prevent Teaster's matter from being dismissed or otherwise diligently pursue Teaster's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (c) By failing to timely and accurately respond to Teaster's inquiries and otherwise keep Teaster informed about the status of his case, by assuring Teaster that service had been perfected when it had not, and by failing to inform Teaster that his case had been dismissed, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the

matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);

- (d) By collecting additional legal fees and leading Teaster to believe the additional legal fees were necessary to pursue a pending case when the case had previously been dismissed, Jenkins collected a clearly excessive fee in violation of Rule 1.5(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (e) By falsely informing Teaster that service had been perfected when in fact it had not, and by providing Teaster with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

FOURTH CLAIM FOR RELIEF

53. Paragraphs 1 through 52 are re-alleged and incorporated as if fully set forth herein.

54. In or around April 2005, Teresa Brown ("Brown") retained Jenkins for representation in a civil matter. Brown paid Jenkins \$1,500.00 and agreed to pay Jenkins ten percent of any damages awarded for the representation.

55. On or about 1 May 2006, Jenkins filed a complaint on Brown's behalf in her civil matter.

56. Throughout the course of the representation, Jenkins repeatedly provided Brown with fictitious court dates and false updates about the status of Brown's case.

57. Throughout the course of the representation, Jenkins failed to respond to Brown's requests for information, failed to provide substantive and useful updates to Brown regarding her case, and otherwise failed to maintain adequate communication with Brown.

58. A hearing on Brown's case was continued on or about 14 January 2009, 4 February 2009 and 25 March 2009 to allow for service of the complaint.

59. Jenkins falsely informed Brown that the opposing party had been served with the complaint in the matter.

60. Contrary to Jenkins's claim, the opposing party had not been served with Brown's complaint.

61. On or about 18 May 2009, Brown's case was dismissed due to Jenkins's failure to perfect service on the opposing party.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to take the steps necessary to prevent Brown's matter from being dismissed or otherwise diligently pursue Brown's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (b) By failing to timely and accurately respond to Brown's inquiries and otherwise keep Brown informed about the status of her case, and by assuring Brown that service had been perfected when it had not, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b); and
- (c) By falsely informing Brown that service had been perfected when in fact it had not, and by providing Brown with fictitious court dates and false status updates regarding her case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

FIFTH CLAIM FOR RELIEF

62. Paragraphs 1 through 61 are re-alleged and incorporated as if fully set forth herein.

63. In or around August 2006, Wayne and Oveida Pitts ("the Pitts") retained Jenkins for representation in a civil matter. The Pitts paid Jenkins for the representation.

64. On or about 24 August 2006, Jenkins filed a complaint on the Pitts' behalf in their civil matter.

65. Over the first two years of the representation, Jenkins continually informed the Pitts that the hearing in their matter had been continued based on the court's schedule.

66. Throughout the course of the representation, Jenkins failed to respond to the Pitts' requests for information, failed to provide substantive and useful updates to the Pitts regarding their case, and otherwise failed to maintain adequate communication with Pitts.

67. On or about 17 January 2009, the Pitts' matter was scheduled for district court session beginning 3 February 2009.

68. On or about 26 January 2009, Jenkins voluntarily dismissed the Pitts' lawsuit.

69. Jenkins did not speak with the Pitts or otherwise obtain the Pitts' authorization to dismiss their pending lawsuit prior to voluntarily dismissing their lawsuit.

70. Jenkins did not inform the Pitts that he voluntarily dismissed their lawsuit.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to consult with the Pitts before voluntarily dismissing their claim in 2009, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2); and
- (b) By failing to respond to the Pitts' inquiries and otherwise keep the Pitts informed about the status of their case, Jenkins failed to keep his clients reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation in violation of Rule 1.4(b).

SIXTH CLAIM FOR RELIEF

71. Paragraphs 1 through 70 are re-alleged and incorporated as if fully set forth herein.

72. In or around 1997, George Rogers, Sr. ("Rogers") retained the law firm of Brown, Queen & Patten, PA for representation in a civil matter. The law firm assigned Jenkins, who was employed by the firm at the time, to represent Rogers in the civil matter. Rogers paid for the representation.

73. Jenkins continued to represent Rogers in Rogers's civil matter when Jenkins left the firm of Brown, Queen & Patten, PA.

74. In or around 1997, Jenkins filed a complaint on Rogers's behalf in his civil matter.

75. In or around November 1999, Jenkins voluntarily dismissed Rogers's civil claim.

76. Jenkins did not speak with Rogers or otherwise obtain Rogers's authorization to dismiss his pending lawsuit prior to voluntarily dismissing his lawsuit.

77. Throughout the course of the representation, Jenkins failed to respond to Rogers's requests for information, failed to provide substantive and useful updates to Rogers regarding his case, and otherwise failed to maintain adequate communication with Rogers.

78. Between 2006 and 2008, Jenkins indicated to Rogers that all parties involved in the matter agreed to settle the dispute and had Rogers sign and notarize at least two different settlement agreements purporting to resolve the matter.

79. The purported agreements Jenkins had Rogers sign were not agreed upon by all parties as Jenkins claimed, and Rogers's dispute was not resolved as Jenkins claimed.

80. Jenkins did not respond to Rogers's subsequent requests for information or status updates regarding the signed agreements.

81. Jenkins misled Rogers regarding the status of his case and the work Jenkins had completed on Rogers's matter.

82. In or around August 2008, Rogers hired new counsel to resolve the matter for which he previously retained Jenkins due to Jenkins's inability to progress on or otherwise complete the goals of the representation.

83. In or around May and August 2008, Rogers's new counsel contacted Jenkins seeking a copy of Rogers's complete client file.

84. Jenkins failed to timely respond to Rogers's new counsel's requests and failed to provide Rogers or Rogers's new counsel with a copy of Rogers's client file.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to consult with Rogers before voluntarily dismissing his claim in 1999, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2);
- (b) By failing to diligently pursue Rogers's matter for a period of at least ten years, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;

- (c) By failing to accurately respond to Rogers's inquiries and otherwise keep Rogers informed about the status of his case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b); and
- (d) By informing Rogers that his dispute had been settled and by having Rogers execute alleged settlement agreements when in fact no settlement had been reached in the matter, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

SEVENTH CLAIM FOR RELIEF

85. Paragraphs 1 through 84 are re-alleged and incorporated as if fully set forth herein.

86. In or around January 2008, Paul Francis and Linnea McAden ("Francis") retained Jenkins for representation in a civil matter. Francis paid Jenkins for the representation.

87. After Francis explained the need for urgency in the matter, Jenkins promised to contact opposing counsel the next business day.

88. Jenkins failed to contact opposing counsel as agreed.

89. Throughout the course of the representation, Jenkins failed to respond to Francis's requests for information, failed to provide substantive and useful updates to Francis regarding his case, and otherwise failed to maintain adequate communication with Francis.

90. In or around March 2008, Francis contacted opposing counsel directly and was informed Jenkins had never contacted opposing counsel.

91. Francis subsequently attempted to speak with Jenkins about the matter, but Jenkins did not respond to Francis's inquiries. Francis then terminated Jenkins's representation.

92. Jenkins's assistant indicated to Francis that Jenkins would fully refund Francis's paid legal fee.

93. Jenkins did not initially refund Francis's paid legal fee as promised.

94. Francis subsequently filed a small claims action against Jenkins in 2009, at which point Jenkins eventually refunded the full amount of the previously paid legal fee.

95. On or about 5 June 2008, before filing the small claims action, Francis filed a fee dispute petition with the State Bar against Jenkins, fee dispute petition no. 08FD0344.

96. On or about 5 June 2008, the State Bar sent a Notification of Mandatory Fee Dispute Resolution to Jenkins regarding fee dispute petition no. 08FD0344. Jenkins responded to the Notification on 24 June 2008.

97. On or about 27 June 2008 and 7 August 2008, the State Bar requested further information from Jenkins regarding his response to the Notification of Mandatory Fee Dispute Resolution concerning fee dispute petition no. 08FD0344.

98. Jenkins failed to respond to the State Bar's follow up letters of 27 June 2008 and 7 August 2008.

99. On or about 21 January 2009, Francis filed a grievance with the State Bar against Jenkins, grievance file no. 09G0120.

100. On or about 19 February 2009, the State Bar sent a Letter of Notice to Jenkins by certified mail regarding grievance file no. 09G0120. Jenkins accepted this Letter of Notice on 23 February 2009 and was required to respond to the Letter of Notice within fifteen days of receiving the letter.

101. Jenkins failed to respond to the Letter of Notice within the fifteen day period as required.

102. On or about 24 March 2009, the State Bar sent a follow up letter to Jenkins regarding the Letter of Notice for grievance file no. 09G0120 requesting a response be received by 3 April 2009.

103. Jenkins failed to respond to the State Bar's 24 March 2009 follow-up letter within the time period provided.

104. On or about 6 April 2009, Jenkins submitted his response to the Letter of Notice regarding grievance file no. 09G0120.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) & 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to contact opposing counsel in the matter or otherwise pursue Francis's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;

- (b) By failing to accurately respond to Francis's inquiries and otherwise keep Francis informed about the status of his case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (c) By failing to timely respond to the State Bar's 5 June 2008 Notification of Mandatory Fee Dispute Resolution and by failing to respond to the State Bar's 27 June 2008 and 7 August 2008 follow-up letters regarding fee dispute petition no. 08FD0344, Jenkins failed to participate in good faith in the fee dispute process in violation of Rule 1.5(f); and
- (d) By failing to timely respond to the State Bar's 19 February 2009 Letter of Notice regarding grievance file no. 09G0120, Jenkins failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

EIGHTH CLAIM FOR RELIEF

105. Paragraphs 1 through 104 are re-alleged and incorporated as if fully set forth herein.

106. On or about 9 April 2008, Ronald and Kay Isserman ("the Issermans") retained Jenkins for representation in a civil matter. The Issermans paid Jenkins \$10,000.00 for the representation.

107. After the representation began, Jenkins indicated he would forward documents to the Issermans for their signature. Jenkins failed to forward the documents as stated.

108. In or around July 2008, Jenkins informed the Issermans that he had filed a complaint on their behalf.

109. Jenkins did not file a complaint on the Issermans' behalf as claimed.

110. Jenkins misled the Issermans regarding the status of their case and the work Jenkins had completed on the Issermans' matter.

111. The Issermans terminated Jenkins's representation and requested a partial refund. Jenkins did not refund any portion of the Issermans' paid legal fee.

112. After the Issermans terminated the representation, Jenkins scheduled three separate appointments to discuss this matter with the Issermans but later cancelled each appointment.

113. Throughout the course of the representation, Jenkins failed to respond to the Issermans' requests for information, failed to provide substantive and useful updates to the Issermans regarding their case, and otherwise failed to maintain adequate communication with the Issermans.

114. On or about 25 February 2009, the Issermans filed a grievance with the State Bar against Jenkins, grievance file no. 09G0224.

115. On or about 26 February 2009, the State Bar sent a Letter of Notice to Jenkins regarding grievance file no. 09G0224. Jenkins accepted this Letter of Notice on 3 March 2009 and was required to respond to the Letter of Notice within fifteen days of receiving the letter.

116. Jenkins failed to respond to the Letter of Notice within the fifteen day period as required.

117. On or about 6 April 2009 Jenkins submitted his response to the Letter of Notice regarding grievance file no. 09G0224.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) & 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to file a complaint or otherwise pursue the Issermans' matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (b) By failing to accurately respond to the Issermans' inquiries and otherwise keep the Issermans informed about the status of their case, and by assuring the Issermans a complaint had been filed when it had not, Jenkins failed to keep his clients reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (c) By failing to provide the legal services for which he was retained and for which he collected a \$10,000.00 fee, Jenkins collected a clearly excessive fee in violation of Rule 1.5(a);
- (d) By failing to refund any unearned portion of the Issermans' paid legal fee, Jenkins failed to take steps to the extent reasonably practicable to protect his clients' interests upon termination of representation in violation of Rule 1.16(d);
- (e) By falsely informing the Issermans that the complaint had been filed in the matter when in fact it had not been filed, Jenkins engaged in conduct

involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c); and

- (f) By failing to timely respond to the State Bar's 26 February 2009 Letter of Notice regarding grievance file no. 09G0224, Jenkins failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

NINTH CLAIM FOR RELIEF

118. Paragraphs 1 through 117 are re-alleged and incorporated as if fully set forth herein.

119. In or around 2007, Robert Putnam ("Putnam") retained Jenkins for representation in an estate matter. Putnam paid Jenkins \$2,500.00 for the representation.

120. Jenkins did not file Putnam's claim with the estate as instructed.

121. Putnam repeatedly requested a refund of his paid legal fee.

122. In or around January 2009, Jenkins agreed to issue a full refund plus interest to Putnam in the form of three separate installments.

123. Jenkins failed to make any of the agreed upon payments or otherwise refund Putnam's paid legal fee.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to refund any unearned portion of Putnam's paid legal fee, Jenkins collected a clearly excessive fee in violation of Rule 1.5(a) and failed to take steps to the extent reasonably practicable to protect his client's interests upon termination of representation in violation of Rule 1.16(d).

TENTH CLAIM FOR RELIEF

124. Paragraphs 1 through 123 are re-alleged and incorporated as if fully set forth herein.

125. In or around August 2009, Pamela Cairnes ("Cairnes") retained Jenkins for representation in a dispute with a bank. Cairnes paid Jenkins for the representation.

126. Pursuant to Cairnes's request, Jenkins stated he would send the bank a letter on Cairnes's behalf expressing her dispute and demanding a remedy.

127. Jenkins subsequently provided Cairnes with a copy of a letter dated 1 September 2009 that Jenkins claimed to have sent to the bank.

128. Jenkins did not send the letter dated 1 September 2009 to the bank as claimed.

129. Jenkins misled Cairnes regarding the status of her case and the work Jenkins had completed on Cairnes's matter.

130. Throughout the course of the representation, Jenkins failed to respond to Cairnes's requests for information, failed to provide substantive and useful updates to Cairnes regarding her case, and otherwise failed to maintain adequate communication with Cairnes.

131. On or about 11 March 2010, Cairnes filed a grievance with the State Bar against Jenkins, grievance file no. 10G0242. The State Bar sent a Letter of Notice to Jenkins regarding grievance no. 10G0242, and Jenkins submitted a response to the Letter of Notice on 7 June 2010.

132. Jenkins informed the State Bar that he had sent the letter dated 1 September 2009 to the bank on Cairnes's behalf.

133. Jenkins did not send the letter dated 1 September 2009 as claimed.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to pursue Cairnes's interests in her dispute with the bank, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (b) By failing to accurately respond to Cairnes's inquiries and otherwise keep Cairnes informed about the status of her case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b); and
- (c) By falsely informing Cairnes and the State Bar that the 1 September 2009 letter had been sent when in fact it had not, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of

Rule 8.4(c) and knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a).

ELEVENTH CLAIM FOR RELIEF

134. Paragraphs 1 through 133 are re-alleged and incorporated as if fully set forth herein.

135. In or around November 2006, R.L. Franklin ("Franklin") retained Jenkins for representation in a domestic matter. Franklin paid Jenkins for the representation.

136. In late 2006, Franklin instructed Jenkins to file a petition for divorce.

137. In or around late 2006 or early 2007, Jenkins falsely informed Franklin that he filed a petition for divorce on Franklin's behalf.

138. Jenkins did not file a petition for divorce on Franklin's behalf as claimed until 15 September 2009.

139. Jenkins misled Franklin regarding the status of his case and the work Jenkins had completed on Franklin's matter.

140. Throughout the course of the representation, Jenkins repeatedly provided Franklin with fictitious court dates and false updates about the status of Franklin's case.

141. Throughout the course of the representation, Jenkins failed to respond to Franklin's requests for information, failed to provide substantive and useful updates to Franklin regarding his case, and otherwise failed to maintain adequate communication with Franklin.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to file a divorce petition as instructed for nearly three years or otherwise meaningfully pursue Franklin's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (b) By failing to accurately respond to Franklin's inquiries and otherwise keep Franklin informed about the status of his case, and by assuring Franklin a divorce petition had been filed when it had not, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client

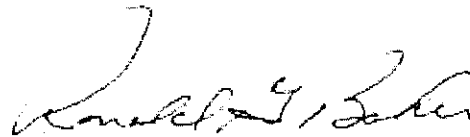
to make informed decisions regarding the representation in violation of Rule 1.4(b); and

- (c) By falsely informing Franklin that the divorce petition had been filed in the matter when in fact it had not been filed, and by providing Franklin with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

This the 3rd day of November, 2010.



Ronald G. Baker, Sr., Chair
Grievance Committee



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